



General Assembly

Substitute Bill No. 1207

January Session, 2005

* SB01207PH 040405 *

**AN ACT CONCERNING THE CAPITAL EXPENDITURE THRESHOLD
FOR THE REGULATION OF EQUIPMENT ACQUISITIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (4) of subsection (a) of section 19a-638 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective July 1, 2005*):

4 (4) [Each] Except as provided in sections 19a-639a to 19a-639c,
5 inclusive, as amended by this act, each applicant, prior to submitting a
6 certificate of need application under this section, section 19a-639, as
7 amended by this act, or under both sections, shall submit a request, in
8 writing, for application forms and instructions to the office. The
9 request shall be known as a letter of intent. A letter of intent shall
10 include: (A) The name of the applicant or applicants; (B) a statement
11 indicating whether the application is for (i) a new, replacement or
12 additional facility, service or function, (ii) the expansion or relocation
13 of an existing facility, service or function, (iii) a change in ownership or
14 control, (iv) a termination of a service or a reduction in total bed
15 capacity and the bed type, (v) any new or additional beds and their
16 type, (vi) a capital expenditure over one million dollars, (vii) the
17 [acquisition] purchase or lease of major medical equipment [, imaging
18 equipment or a linear accelerator costing over four hundred thousand
19 dollars] costing over four hundred thousand dollars, (viii) a CT

20 scanner, PET scanner, PET/CT scanner, MRI scanner, cineangiography
21 equipment, a linear accelerator or other equipment utilizing
22 technology that is new or being introduced into the state, or (ix) any
23 combination thereof; (C) the estimated capital cost, value or
24 expenditure; (D) the town where the project is or will be located; and
25 (E) a brief description of the proposed project. The office shall provide
26 public notice of any complete letter of intent submitted under this
27 section, section 19a-639, as amended by this act, or both, by publication
28 in a newspaper having a substantial circulation in the area served or to
29 be served by the applicant. Such notice shall be submitted for
30 publication not later than fifteen business days after a determination
31 that a letter of intent is complete. No certificate of need application will
32 be considered submitted to the office unless a current letter of intent,
33 specific to the proposal and in compliance with this subsection, has
34 been on file with the office at least sixty days. A current letter of intent
35 is a letter of intent [which] that has been on file at the office up to and
36 including one hundred twenty days, except that an applicant may
37 request a one-time extension of a letter of intent of up to an additional
38 thirty days for a maximum total of up to one hundred fifty days if,
39 prior to the expiration of the current letter of intent, the office receives
40 a written request to so extend the letter of intent's current status. The
41 extension request shall fully explain why an extension is requested.
42 The office shall accept or reject the extension request [within] not later
43 than five business days from the date it receives such request and shall
44 so notify the applicant.

45 Sec. 2. Subsection (a) of section 19a-639 of the general statutes is
46 repealed and the following is substituted in lieu thereof (*Effective July*
47 *1, 2005*):

48 (a) Except as provided in sections 19a-639a to 19a-639c, inclusive, as
49 amended by this act, each health care facility or institution, including,
50 but not limited to, any inpatient rehabilitation facility, any health care
51 facility or institution or any state health care facility or institution
52 proposing (1) a capital expenditure exceeding one million dollars, [or
53 the acquisition] (2) to purchase, lease or accept donation of major

54 medical equipment requiring a capital expenditure, as defined in
55 regulations adopted pursuant to section 19a-643, in excess of four
56 hundred thousand dollars, or (3) to purchase, lease or accept donation
57 of a CT scanner, PET scanner, PET/CT scanner, MRI scanner,
58 cineangiography equipment, a linear accelerator or other equipment
59 utilizing technology that is new or being introduced into this state,
60 including the [leasing] purchase, lease or donation of equipment or a
61 facility, shall submit a request for approval of such expenditure to the
62 office, with such data, information and plans as the office requires in
63 advance of the proposed initiation date of such project.

64 Sec. 3. Subdivision (3) of subsection (b) of section 19a-639 of the
65 general statutes is repealed and the following is substituted in lieu
66 thereof (*Effective July 1, 2005*):

67 (3) The office shall comply with the public notice provisions of
68 subdivision (4) of subsection (a) of section 19a-638, as amended by this
69 act, and shall hold a public hearing with respect to any complete
70 certificate of need application filed under this section, if: (A) The
71 proposal has associated total capital expenditures or total capital costs
72 that exceed twenty million dollars for land, building or nonclinical
73 equipment acquisition, new building construction or building
74 renovation; [or] (B) the proposal has associated total capital
75 expenditures per unit or total capital costs per unit that exceed one
76 million dollars for the purchase or lease of major medical equipment; [,
77 imaging equipment or] (C) the proposal is for the purchase or lease of
78 scanning equipment, cineangiography equipment, a linear accelerator
79 [,] or other equipment utilizing technology that is new or being
80 introduced into the state; or [(C)] (D) three individuals or an individual
81 representing an entity comprised of five or more people submit a
82 request, in writing, that a public hearing be held on the proposal. At
83 least two weeks' notice of such public hearing shall be given to the
84 applicant, in writing, and to the public by publication in a newspaper
85 having a substantial circulation in the area served by the applicant. At
86 the discretion of the office, such hearing shall be held in Hartford or in
87 the area so served or to be served.

88 Sec. 4. Subsection (c) of section 19a-639 of the general statutes is
89 repealed and the following is substituted in lieu thereof (*Effective July*
90 *1, 2005*):

91 (c) [Notwithstanding section 19a-639a or 19a-639b, each] Each
92 person or [facility] provider, other than a health care or state health
93 care facility or institution subject to subsection (a) of this section,
94 proposing to [acquire] purchase, lease, accept donation of or replace
95 [imaging equipment or a linear accelerator, requiring a capital
96 expenditure, as defined in regulations adopted pursuant to section
97 19a-643, in excess of four hundred thousand dollars, including the
98 leasing or donation of such equipment and facility and including all
99 capital expenditures, as defined in regulations adopted pursuant to
100 said section, associated with the provision of the imaging service or
101 operation of a linear accelerator] (1) major medical equipment with a
102 capital expenditure in excess of four hundred thousand dollars, or (2) a
103 CT scanner, PET scanner, PET/CT scanner, MRI scanner,
104 cineangiography equipment, linear accelerator or other equipment
105 utilizing technology that is new or being introduced into the state,
106 shall submit a request for approval of any such [imaging equipment or
107 linear accelerator acquisition] purchase, lease, donation or replacement
108 pursuant to the provisions of subsection (a) of this section. In
109 determining the capital cost or expenditure for an application under
110 this section or section 19a-638, as amended by this act, the office shall
111 use the greater of [(1)] (A) the fair market value of the equipment as if
112 it were to be used for full-time operation, whether or not the
113 equipment is to be used, shared or rented on a part-time basis, or [(2)]
114 (B) the total value or estimated value determined by the office of any
115 capitalized lease computed for a three-year period. Each method shall
116 include the costs of any service or financing agreements plus any other
117 cost components or items the office specifies in regulations, adopted in
118 accordance with chapter 54, or deems appropriate.

119 Sec. 5. Section 19a-639a of the general statutes is repealed and the
120 following is substituted in lieu thereof (*Effective July 1, 2005*):

121 (a) Except as provided in subsection (c) of section 19a-639, as
122 amended by this act, or as required in subsection (b) of this section, the
123 provisions of section 19a-638, as amended by this act, and subsection
124 (a) of section 19a-639, as amended by this act, shall not apply to: (1) An
125 outpatient clinic or program operated exclusively by, or contracted to
126 be operated exclusively for, a municipality or municipal agency, a
127 health district, as defined in section 19a-240, or a board of education;
128 (2) a residential facility for the mentally retarded licensed pursuant to
129 section 17a-227 and certified to participate in the Title XIX Medicaid
130 program as an intermediate care facility for the mentally retarded; (3)
131 an outpatient rehabilitation service agency that was in operation on
132 January 1, 1998, that is operated exclusively on an outpatient basis and
133 that is eligible to receive reimbursement under section 17b-243; (4) a
134 clinical laboratory; (5) an assisted living services agency; (6) an
135 outpatient service offering chronic dialysis; (7) a program of
136 ambulatory services established and conducted by a health
137 maintenance organization; (8) a home health agency; (9) a clinic
138 operated by the Americares Foundation; (10) a nursing home; or (11) a
139 rest home. [However, the] The exemptions provided in this section
140 shall not apply when a nursing home or rest home is, or will be
141 created, acquired, operated or in any other way related to or affiliated
142 with, or under the complete or partial ownership or control of a facility
143 or institution or affiliate subject to the provisions of section 19a-638, as
144 amended by this act, or subsection (a) of section 19a-639, as amended
145 by this act.

146 (b) Each health care facility or institution exempted under this
147 section shall register with the office by filing the information required
148 by subdivision (4) of subsection (a) of section 19a-638, as amended by
149 this act, for a letter of intent at least ten business days but not more
150 than sixty calendar days prior to commencing operations and prior to
151 changing, expanding, terminating or relocating any facility or service
152 otherwise covered by section 19a-638, as amended by this act, or
153 subsection (a) of section 19a-639, as amended by this act, or covered by
154 both sections or subsections, except that, if the facility or institution is

155 in operation on June 5, 1998, said information shall be filed not more
156 than sixty days after said date. Not later than ten business days after
157 the office receives a completed filing required under this subsection,
158 the office shall provide the health care facility or institution with
159 written acknowledgment of receipt. Such acknowledgment shall
160 constitute permission to operate or change, expand, terminate or
161 relocate such a facility or institution or to make an expenditure
162 consistent with an authorization received under subsection (a) of
163 section 19a-639, as amended by this act, until the next September
164 thirtieth. Each entity exempted under this section shall renew its
165 exemption annually by filing current information each September.

166 (c) Each health care facility or institution that proposes to purchase
167 or lease a CT scanner, PET scanner, PET/CT scanner, MRI scanner,
168 cineangiography equipment or a linear accelerator shall be exempt
169 from certificate of need review pursuant to sections 19a-638 and 19a-
170 639, as amended by this act, if such facility or institution (1) provides
171 to the office satisfactory evidence that it purchased or leased such
172 equipment on or before July 1, 2005, and such equipment was in
173 operation on or before said date, or (2) obtained, on or before July 1,
174 2005, from the office, a certificate of need or a determination that a
175 certificate of need was not required for the purchase or lease of such
176 equipment.

177 Sec. 6. Section 19a-639c of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective July 1, 2005*):

179 Notwithstanding the provisions of section 19a-638, as amended by
180 this act, or section 19a-639, as amended by this act, the office may
181 waive the requirements of those sections and grant a certificate of need
182 to any health care facility [,] or institution or provider or any state
183 health care facility [,] or institution or provider proposing to replace
184 major medical equipment, [imaging equipment] a CT scanner, PET
185 scanner, PET/CT scanner, MRI scanner, cineangiography equipment
186 or a linear accelerator if:

187 (1) The health care facility [] or institution or provider has
 188 previously obtained a certificate of need for the equipment [or
 189 accelerator being] to be replaced;

190 (2) The replacement value or expenditure for the replacement
 191 equipment [or accelerator] is not more than the original cost plus an
 192 increase of ten per cent for each twelve-month period that has elapsed
 193 since the date of the original certificate of need; and

194 (3) The replacement value or expenditure is less than two million
 195 dollars.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2005</i>	19a-638(a)(4)
Sec. 2	<i>July 1, 2005</i>	19a-639(a)
Sec. 3	<i>July 1, 2005</i>	19a-639(b)(3)
Sec. 4	<i>July 1, 2005</i>	19a-639(c)
Sec. 5	<i>July 1, 2005</i>	19a-639a
Sec. 6	<i>July 1, 2005</i>	19a-639c

PH *Joint Favorable Subst.*